IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (LDG.) NO. 450 OF 2006.
IN
NOTICE OF MOTION NO. 75 OF 2006
IN
SUIT NO. 39 OF 2006

M/s.Welfare Properties Pvt.Ltd. ... Appellant.
Versus.
Sohanlal D.Jain and others. ... Respondents.

Shri A.Y.Sakhare,Senior Advocate with Ms.Archana Khan for the Appellant.

Shri Birendra Saraf with Ms.Manisha Kapadia for the Respondent No.1.

Shri P.K.Dakhephalkar, Senior Advocate i/by Shri S.K.Srivastava & Co. for Respondent Nos.2 to 4.

CORAM : KSHITIJ R.VYAS, C.J., &
ABHAY S.OKA, J.

DATE : 20th June, 2006.

P.C.:

1. By this appeal the Appellants have challenged the order dated 13th April 2006 passed by the learned single Judge in Notice of Motion No.75 of 2006 whereby ad-interim relief was refused. The single Judge directed the parties to file reply within seven weeks and rejoinder, if any, within two weeks thereafter and the motion has been made returnable after ten weeks. The reason given by the learned single Judge for refusing to grant ad-interim relief is that the suit property consists of several units which have been conveyed to many persons and all those persons have not been made parties to the suit. The Appellant's claim for specific performance is based on a writing dated

27th December 2004 and the Minutes of the meeting dated 21st May 2005. The learned Judge held that the documents were not duly stamped and that the documents are not registered and therefore, ad-interim relief as asked for cannot be granted. The reasoning of the learned single Judge in paragraphs 2 and 3 of the order does not sound good.

2. It is the case of the Plaintiff and the Defendants that the suit property consists of several units which have been conveyed to different parties and none of the purchasers of the units have been made parties to the proceedings. The learned Counsel for the Plaintiffs submitted that they will take out fresh motion after impleading all the concerned unit holders as party Defendants to the suit. The learned Counsel for the Defendants have no objection for such course being taken.

3. In view of this, the order dated 13th April 2006 is set aside. The present notice of motion is disposed of with liberty to the Plaintiff to take out fresh motion. Appeal disposed of accordingly.

CHIEF JUSTICE

ABHAY S.OKA, J.